

Advisory Board on Toxic Substances and Worker Health: Recommendations Summary and Status					
ID	Board's Recommendation	Summary	DOL response	Current Status	Accepted/Not/In Progress/More Information
(1) Rescind Cir. 15-16	October 2016: #1	Rescind Circular 15-16, Post-1995 Occupational Toxic Exposure Guidance	DEEOIC agreed to rescind.	CLOSED	accepted
(2) Add IOM info to the SEM	October 2016: #2	Add IOM Report's exposure links to the SEM.	There are many sources but some contradict or are redundant. Request that the Board provide more specific and relevant information.	Board will give more input/develop more specific guidance and input. CLOSED.	more information
	follow-up Jan 2018: #1	Expand exposure links in the SEM by adding information from the IOM Report: IARC, IRIS, and NTP. Establish a team in DEEOIC to do this.	IARC is already used in SEM health effect data. DEEOIC will not add IRIS and NTP information without investigation of the findings. DEEOIC mission is primarily adjudicatory, not scientific. If the Board offers more specific guidance, DEEOIC will consider.		
(3) OHQ given by former DOE workers	October 2016: #3	Former workers should be hired to administer the OHQ.	DEEOIC's contractor for Resource Center administration seeks to hire former workers where possible.	CLOSED	partially accepted
	follow-up January 2018: #2	Hire former DOE workers at the RCs to better facilitate the administration of the OHQ. Request data on the work performed by former workers at RCs.	DEEOIC requires that the contractor give hiring preference to former workers, but cannot require them to hire ONLY former workers. Data is provided in the response.		
(4) Process for IH to interview claimant	October 2016: #4	Establish a process for the IH to interview the claimant.	DEEOIC notes the CEs are the finders of fact. Sometimes it may be appropriate for the CE to coordinate discussion btwn the IH and the claimant and "has begun to develop procedures" for this. Guidance added to PM 15.11.d.	CLOSED	partially accepted
(5) Policy call notes published	October 2016: #5	Post policy teleconference notes in a public, searchable database.	DEEOIC does not agree. The policy teleconference is a place for staff discussion. Notes may be confusing as they are often on complex issues. Publishing may inhibit discussions.	CLOSED	not accepted

(6) Case Files on a Public Portal	October 2016: #6	Explore feasibility of having the case files accessible on a public portal.	OWCP as a whole is developing this capability. DEEOIC provided an update in Nov 2018 that all four programs are in various stages of developing online claims portals. It is easiest for FECA, as their claimant are federal. Other programs have additional privacy and authentication concerns, as claimants are members of the public. The DEEOIC hopes to give the claimants the ability to access their case files electronically in FY 2021.	CLOSED	accepted
(7) Enhance scientific and technical capabilities at DOL or OWCP/DEEOIC	October 2016: #7	DOL should reorganize its occupational physicians into a structure similar to the Solicitor's office for attorneys.	This is beyond OWCP's boundaries. DEEOIC provided additional information to enhance the Board's understanding.	CLOSED	not accepted
	follow up April 2017: #5	DEEOIC should enhance its scientific and technical capacity to: support policies; enhance individual decisionmaking; inform assessments of contractor experts.	DEEOIC agrees having more resources would be useful, and notes that it uses contractors for SEM, has a medical director and several nurses, does quarterly audits of medical consultants, has a toxicologist, and has CMCs and IH consultants.		
	follow up January 2018: #8	DEEOIC should enhance its scientific and technical capacity, in the areas of disease causation, epidemiology, and occupational medicine.	DEEOIC has scientists on staff and utilizes contractors for CMCs, IHs, SEM development, and has consulted other experts. It will continue to do so.		
(8) Entire Case File goes to CMC/IH	October 2016: #8	Make the entire case file available to the IH and CMC. The CE should map the file.	DEEOIC disagrees, as it is often inefficient, uneconomical to supply superfluous documents to CMCs when only parts of the medical information are relevant to the issue. The IH should not have to sift through the non-exposure info. The CE is the fact finder and puts all evidence together for a decision.	The Board does not agree, but is not pursuing. CLOSED.	not accepted
	follow up January 2018: #3	The entire case file should be available to the CMC and the IH, and the CE should map the claim.	DEEOIC considers its current referral process to be sufficiently robust. Referrals to IH include all exposure information. Referrals to CMC include all medical information relating to the relevant condition. Claims examiners are the finders of fact.		

(9) Asbestos Presumption	April 2017: #1 Asbestos presumption, four subparts	(1) 250 days aggregate duration of exposure for six asbestos conditions	DEEOIC agrees.	CLOSED	partially accepted
		(2) latency of 15 years for malignant mesothelioma, with 30 days of exposure	DEEOIC agrees on latency (except will keep 10 years on asbestosis). Requests support for two new job categories. Requests support for 2005 as the date in the presumption.	CLOSED	
		(3) All claims that do not meet the presumptions will be referred to IH and CMC	DEEOIC agrees and current policy states this.	CLOSED	
		(4) COPD may have contribution from asbestos. Evaluate claims using a chart of presumptions based on disease and job category of maintenance/construction is given	DEEOIC responds in conjunction with April 2017 #3		
	follow up January 2018 #4	The Board modifies its proposal: specifies latency periods; "exposure" and "causation" presumptions are linguistic and presumptions can meet both; scientific publications in support are provided; agrees to use 1995 while 2005 support is located.	DEEOIC agrees with latency periods. DEEOIC has concerns with the labor categories and thinks its current policy is more specific. DEEOIC agrees to use 1995 as a threshold date pending support for 2005. DEEOIC notes that "exposure" and "causation" are both required by the statute.	Dr.Markowitz, Mr. Domina, Mr. Mahs, Dr. Mikulski, and Dr. Dement worked on a response for additional input. CLOSED	
	follow up February 2019 #2	Exhibit 15-4, recommended revisions to wording (1) delete "high, medium, low" exposure from 15-4.3; (2) presume some exposure prior to 1987 and let IH determine significance; (3) negative presumption on 1987-1996 should not exist, let IH determine significance; (4) "day by day" exposure should be retained only for IH evaluation; (5) List 3a(1)(Table3) lacks selected job titles. The Board recommends a Board committee work with DEEOIC to examine SEM job titles to add.	DEEOIC (1) agrees and will use "significant" exposure; (2) agrees, notes that this exists already in 15-4.3a(2); (3) existing PM guidance accomodates this, at 15-4.3a(1); (4) agrees, "day by day" removed in May 16, 2019 transmittal; (5) will consider changes, can the Board provide IH or epidemiological basis for significant asbestos exposure for each job title. DEEOIC welcomes additional input on SEM job titles.		

	follow up June 2020 #1	Revise the list of occupations in SEM with presumed pre-1995 asbestos exposure (PM 4.2) to reflect current knowledge (as discussed in rationale); committee of the Board should work with DEEOIC	DEEOIC agrees to work with its SEM contractor to assess information and determine any changes to SEM; but it cannot work with a committee of the Board.		partially accepted
(10) Asthma Presumption	April 2017: #2 Asthma presumption, four subparts	(1) Use the term "work related asthma" (WRA) to include both occupational asthma and work-exacerbated asthma	DEEOIC agrees and has modified the PM to incorporate the term.	CLOSED	partially accepted
		(2) the treating physician's diagnosis should be sufficient medical evidence of asthma.	DEEOIC agrees. DEEOIC also notes that the physician's opinions should include appropriate medical rationale as required for any diagnosis.	CLOSED	
		(3) WRA definition provided in relation to specific criteria	DEEOIC has made modifications to the PM that comport in part with the recommendation; however a triggering event is required.	CLOSED	
		(4) the same criteria should be used in evaluating WRA claims whether the claim is made during DOE employment or after. A triggering event may be present but should not be required.			
	follow up January 2018 #5	(1) The Board recommends language changes to procedural guidance on the existing asthma presumption.	DEEOIC will make additional PM changes.	CLOSED	
		(2) The Board offers an alternative definition of the term "toxic substance."	The current definition is specified in regulations, which have the effect of law.		
	follow up February 2019 #1	PM language is divergent from medical guidelines: request that physician ID "mechanism" for asthma is not feasible; revise "the strongest justification" can only be met in few cases; recommend new wording for Appendix 1.5c(ii)	DEEOIC disagrees, as exposure must be tied to a toxic substance under the Act, and the PM cannot modify that.	Board recommended new language to Program in January 2020 meeting CLOSED	
	follow up January 2020 #1	Modify PM Appendix 1, Section 5c(ii): add "the qualified physician must provide a well-rationalized explanation for his or her conclusions" in place of current language, so that "mechanism of disease" is deleted	DEEOIC agrees to modify language, add "the qualified physician must provide a well-rationalized explanation for this conclusion that identifies the toxic substance(s) that likely caused, contributed to, or aggravated the diagnosed asthma," and delete "mechanism of disease."	CLOSED	

(11) COPD Presumption	April 2017 #3: COPD presumption, two subparts	(1) revise the exposure presumptions for COPD with: any claimant in an attached list of labor categories or who reports VGDF exposure for at least 5 years, should be presumed to have exposure sufficient for COPD	DEEOIC will consider but has questions about the presumption. DEEOIC requests that the Board provide information about the labor categories. Also DEEOIC cannot implement "VGDF" but needs a list of toxic substances that represents VGDF.	Board may re-visit revised formulation of issue. CLOSED	more information
		(2) CEs should not deny claims that do not meet the presumption but should be sent to IH and CMC evaluation			
	follow up January 2018: #6	Modify the COPD presumption: exposure to VGDF has a health effect of COPD; change the exposure period necessary from 20 years to 5 years	DEEOIC cannot use the phrase "VGDF" as a toxic substance. DEEOIC would welcome input on additional specific toxic substances encompassing VGDF that could be added in SEM with a COPD health effect.		
(12) OHQ Revisions	April 2017: #4	Revisions to the OHQ recommended. Test the revisions to determine user-friendly and face validity.	DEEOIC has made some revisions as recommended. DEEOIC notes that the job list provided is for construction trades and is not generally applicable. VGDF cannot be added, but if the Board develops a specific list of toxic substances, it will be considered.	Revised OHQ in use. CLOSED	accepted
	follow up January 2018 #7	Several OHQ revisions are recommended	DEEOIC is reviewing revisions to the OHQ and will consider the Board's suggestions.		
	follow up February 2019 #3	Draft OHQ provided too little detail and structure to be "memory trigger"; some of the sections that were deleted provide useful information; some new sections are too arduous for marginal use. Suggested revisions provided (six sections with subparts).	DEEOIC will make some additional changes to the OHQ draft, will not make other suggested changes.		
(13) Two Borderline BeLPTs equal one Positive BeLPT	April 2017 #6	Two borderline BeLPT tests should be considered the equivalent of one positive BeLPT for adjudication under Part B.	DEEOIC disagrees. This is inconsistent with the statute, which is specific on requirements on BeLPTs.	CLOSED	not accepted

(14) Sample of 50 CMC reports	April 2017 #7	DOL should provide the Board with sufficient resources to conduct a quality assessment of a sample of 50 CMC reports on denied claims.	DEEOIC's medical director conducts quarterly quality control assessments of 50 CMC reports. These are redacted and posted online. A meeting in July 2017 with Board members and the DEEOIC medical director gave more information on this. The Board will look at these reports.	The Board notes that the medical director already completes these audits. The Board also feels that it should also do an external review and will discuss further.	partially accepted
(15) Solvent-Related Hearing Loss Presumption	June 2017 #1	Presumption for solvent-related hearing loss, in several specific provisions.	DEEOIC notes it has a current presumption for solvent-related hearing loss, notes some similarities and differences to the Board's proposal. DEEOIC requests more information: (1) bilateral? (2) evidence for reducing the duration requirement to 7 years (3) is this in combination with noise, and what would the exposure level be? and labor categories with solvent exposure? (4) exposure demarcation date. DEEOIC does not agree to solely utilizing reported exposures to organic solvent mixtures, or that solvent exposure be established through work history and DDWLP (as there is no DDWLP on hearing loss). DEEOIC agrees to add two toxic substances to the existing hearing loss presumption.	The Board remains in favor of recommendation based on rationale and documentation already provided	partially accepted
(16) Definition of "Chronic Respiratory Disorder"	June 2017 #2	The Board proposes a definition of "chronic respiratory disorder"	DEEOIC agrees and will add this to the PM, but it will not be a dispositive standard, as it is important to give wide latitude to reviewing physicians. See PM 18.6.	CLOSED	accepted
(17) PM Revisions	June 2017 #3	The Board proposes a number of revisions to the PM relevant to Part B conditions, in an attached document.	DEEOIC agrees to consider these comments and make PM revisions as part of the next PM edition.	CLOSED	accepted
(18) Request for resources	April 2019 #1	The Board requests resources (such as an external contractor) to assist in systematic evaluation of claims to assess and ensure objectivity, quality, and consistency of IH and medical evaluations.	DOL conferred with the Board's Chair to explore options, and the Board is working on defining the type of contractor assistance they need in order to provide requirements to DOL.	in progress	accepted

(19) IH language citing absence of monitoring data	April 2019 #2	The Board recommends that certain language about absence of monitoring data be omitted from IH report.	DEEOIC disagrees. In the absence of monitoring data it is impossible to gauge individual exposure, so the IH team uses an exposure methodology that assumes a higher toxic exposure than would have been encountered. Board's assumption that significant exposures occurred absent any monitoring is not reasonable.	CLOSED	not accepted
(20) Job categories in SEM that worked throughout DOE sites	November 2019 #1	The Board recommends that the SEM identify job categories at DOE sites that likely have worked throughout the sites, and would have had potential exposure to many toxic substances.	DEEOIC rejects the recommendation. Job categories in SEM are based on specific data locations and toxic substances. DOL does not make broad determinations across facilities. Cases are developed on an individual basis, using exact duties the employee was involved with.	CLOSED	not accepted
(21) Add open-ended question to the end of the OHQ and send claimants a copy with examples prior to OHQ interview	April 2020 #1	Add a general, open-ended question at the end of the OHQ, such as "did we miss anything" with an example	DEEOIC agrees and will add such a question.	CLOSED	accepted
		Send claimants a copy of the OHQ, or a simplified version, with examples prior to the OHQ interview	DEEOIC currently provides guidance about the OHQ process, and will work to produce a notice or summary document to help claimants prepare for the OHQ interview.		
(22) Parkinson Disorders: Parkinsonism treated the same as Parkinson's disease	June 2020 #2	Parkinsonism and aliases should be treated the same as Parkinson's disease throughout claim adjudication	DEEOIC accepts that Parkinson's Disease, Paralysis Agitans, and Hemiparkinsonism are acceptable aliases for Parkinsonism and will modify PM Exhibit 15-4. Idiopathic Parkinsonism is already acceptable.	CLOSED	partially accepted
(23) Exposures to CS2 and TCE presumed to cause, contribute to, or aggravate Parkinsonism	June 2020 #3	Carbon disulfide (CS2) and trichloroethylene (TCE) should be presumed to cause, contribute to or aggravate Parkinsonism, with a minimum exposure duration of 8 years	DEEOIC agrees to add CS2 and TCE as toxic substances with a Parkinsonism effect in SEM. DEEOIC does not agree to add an 8 year exposure duration to the causation standard.	CLOSED	partially accepted

(24) Exposure presumptions for job categories that worked throughout the sites	November 2020 #1	Some workers worked throughout various sites and had potential exposures to all listed toxic substances at those sites.	Assignment of toxic substances exposure to job titles is site-specific. It is inappropriate to assign broad classification of exposure to specific labor categories without documentary support.	DOL is willing to dialog about specific toxic exposures that could be assigned to highly mobile workers at particular facilities. CLOSED	not accepted
(25) Develop an ongoing independent third party-based system of reasonable frequent periodic evaluation of individual claim reports and aggregate audits of IH and physician reports	November 2020 #2	Results of these analysis should be reported to the Board systematically.	DEEOIC agrees to implement changes to quality control methodologies to enhance evaluation of IH and physician reports. In addition to efforts already in place, DEEOIC will redesign the review process to supplement the quarterly reports from the medical director.	CLOSED	accepted
(26) Include probable human carcinogens in the SEM	April 2021 #1	(1) probable human carcinogens IARC Group 2A should be linked to specific cancer sites in SEM; (2) SEM should specify that IARC and NTP evaluations have been used to assert linkages; (3) data from IARC and NTP should be used for health effects and linkages of toxic substances to cancers	DEEOIC agrees to update the SEM and program information with information and data, including that from IARC and NTP, and to continue collaborating with the Board on evaluating updated health effect data from different scientific organizations.	CLOSED	accepted
(27) Add a presumptive standard to apply CDC guidance in establishing COVID-19 as consequential to an accepted work-related illness	April 2021 #2	Any chronic health condition or risk factor listed by the CDC as being associated with severe COVID-19 should be presumed to be more likely to lead to symptomatic COVID-19 disease. COVID-19 is a consequence of those chronic health conditions when it follows or coincides with the onset of those conditions.	DEEOIC agrees to add a presumptive standard for COVID-19 as consequential to an accepted work-related illness.	CLOSED	accepted
(28) Asbestos presumptions	April 2021 #3	(1) DOL should re-evaluate certain job titles and add these to the SEM list of occupations presumptively exposed to asbestos; (2) the Board requests access to Generic Profiles; (3) DOL should clarify how DOE jobs corresponding to "Maintenance and Repair, General Helper" are classified within SEM and whether linked to asbestos exposure	DEEOIC agrees to coordinate re-evaluation of the noted job titles with the SEM contractor and make alterations to the list of jobs with presumed exposure. DEEOIC will give the Board access to General Profiles data. DEEOIC will collaborate with the SEM contractor to evaluate links between the job title and asbestos to determine what clarifications are needed in SEM.	CLOSED	accepted

(29) Use of the Six-Minute Walk Test in impairment evaluations	April 2021 #4	The 6MWT is an acceptable mechanism to measure the VO2max for an impairment evaluation. The best method is listed in the recommendation.	DEEOIC agrees to accept a 6MWT as a viable method for calculating VO2max and will provide staff guidance on the use of the calculation recommended by the Board.	CLOSED	accepted
(30) DOL should communicate to Congress the need for a technical amendment to the EEOICPA recognizing that those who have three borderline BeLPT tests have beryllium sensitivity	June 2022 #1	The statutory language of the EEOICPA is out of date and needs to be updated for current medical standards with regard to beryllium sensitivity.	DEEOIC has been discussing this topic with staff members from the Senate HELP Committee and has advised it would not have difficulty implementing the recommended amendment to the EEOICPA if enacted.	CLOSED	partially accepted
(31) DEEOIC should advise staff and IH contractor that claim-related IH reports restrict comparisons of claimants' exposures to toxic substances only to cases where sufficient IH data exist that are relevant to the claim and that supports to comparisons	June 2022 #2	Comparisons to regulatory standards must describe the available IH data and specific regulatory limit referenced. In the absence of specifics, comparisons to regulatory standards lack support.	DEEOIC agrees to modify how IH staff characterize toxic substances exposure to eliminate reference to exposures that occurred within regulatory standards. Evaluation will continue to be informed by professional judgment and available employee-specific data.	CLOSED	accepted
(32) Site-wide exposures	November 2023 #1	Routine duties performed site-wide be noted and consideration given in establishing exposure and causation for exposures that are site wide	DEEOIC reiterated that broad based generalizations are not appropriate in the absence of specific evidence in support of particular labor categories.	CLOSED	not accepted
(33) Implement a mechanism to evaluate the validity and accuracy of CMC reports	May 2023 #1	Pay particular attention to the causation in denied claims and also prospectively. The method should have sufficient independence from the current method to avoid perception of conflict of interest.	DEEOIC believes current methods are accurate and clear, and additional procedures may cause unnecessary delay in adjudication. DEEOIC invites the Board to provide specific guidance or medical references that may be communicated to staff or CMCs about medical standards or data that might assist CEs.	in progress	not accepted

<p>(34) Enhance IH exposure assessments, suggest assessment form</p>	<p>May 2023 #2</p>	<p>Enhance IH reports to specifically address (1) exposure intensity (2) exposure route (3) exposure frequency (4) exposure duration. The Board recommends adoption of an exposure assessment form and provides an example.</p>	<p>DEEOIC agrees to add a data field relating to the type of exposure but has concerns with the scientific value of reporting the other fields, as they may not communicate nuances that can be better explained in a narrative. DEEOIC will also communicate with the CMC contractor as to whether these suggestions for IH reports would assist CMCs in their analysis.</p>	<p>in progress</p>	<p>partially accepted</p>
<p>(35) CMC performance assessment panel</p>	<p>November 2023 #1</p>	<p>Expand quality assessment of CMC performance: independent peer review of CMC reports quarterly, by panel of physicians</p>	<p>DEEOIC seeks further information about the specific circumstances in which a physician's opinion would be objectively characterized as an error or not. Also seeks medical opinions the Board thinks may be erroneous.</p>	<p>in progress</p>	<p>partially accepted</p>
<p>(36) Staff person for terminal claims at each district office</p>	<p>November 2023 #2</p>	<p>Designate a program staff person at each district office to serve as an initial point of contact for terminal claims</p>	<p>DEEOIC does not agree that a single staff person would enhance the ability to bring terminal claims to timely and accurate resolution, given the current procedures in place for expedited assistance, which work well.</p>	<p>CLOSED</p>	<p>not accepted</p>
<p>(37) Modify IH exposure assessment and communication procedures</p>	<p>November 2023 #3</p>	<p>Require IH consultant to address OHQ exposures and describe exposure-related information from each data source, and share OHQ with physician who uses IH report for causation analysis</p>	<p>DEEOIC will work with IH contractor to develop feasible changes to IH reports to communicate case specific exposure data, but does not agree to provide OHQ to a physician assessing causation</p>	<p>in progress</p>	<p>partially accepted</p>